

201014101  
Felix Acosta  
Welinton Gomez

On October 7, 2010, PO Felix Acosta and PO Welinton Gomez were issuing a ticket to a van that had been double-parked while unloading material into a store in upper Manhattan. The owner of the store's son came out to complain. The officers recognized the son from an earlier incident when they had issued him a traffic summons and learned (after he had left) that he had an open warrant. They sought to arrest him for the warrant. Security video from the store shows that the man lifted his arm as the officers approached with handcuffs, and that they pinned him against the wall. The security footage then shows that PO Acosta presses his right forearm against the man while pointing his index finger towards the man's face. The video then shows PO Acosta pull his arm back and punch the man in the face, before both officers take him to the ground for a brief struggle before he is handcuffed.

Because the punch was an allegation in the CCRB complaint, each officer was specifically and directly asked whether PO Acosta had punched the man. Each specifically and directly denied that Acosta had done so, providing detailed statements that demonstrated they remembered the incident well. Each officer, after testifying, was shown the security footage that confirmed PO Acosta punched the man in the face while the man was standing still. At that point, each officer changed his testimony to state that he did not recall PO Acosta punching the man, despite the fact that each otherwise recalled the incident in detail.

The CCRB substantiated the allegation that PO Acosta had punched the man in the face without justification, and found that both officers had lied in their interviews.

The NYPD did not discipline either officer for the incident. Both have since been promoted to Sergeant.

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Asencio	Team: Team # 1	CCRB Case #: 201014101	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thu, 10/07/2010 12:29 PM	Location of Incident: [REDACTED]	Precinct: 33	18 Mo. SOL 04/07/2012	EO SOL 4/7/2012	
Date/Time CV Reported Thu, 10/07/2010 12:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/13/2010 12:35 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Felix Acosta	11482	§ 87(2)(b)	033 PCT
2. POM Welinton Gomez	23039	§ 87(2)(b)	033 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Victor Garcia	04000	§ 87(2)(b)	033 PCT
2. SGT Fredy Cruz	00887	§ 87(2)(b)	033 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Felix Acosta	Force: At § 87(2)(b) in Manhattan, PO Felix Acosta used physical force against § 87(2)(b).	A . § 87(2)(g)
B . POM Felix Acosta	Force: At the 33rd Precinct stationhouse, PO Felix Acosta used physical force against § 87(2)(b).	B . § 87(2)(g)
C . POM Felix Acosta	Other: PO Felix Acosta intentionally made a false official statement when he said he did not strike § 87(2)(b).	C . § 87(2)(g)
D . POM Welinton Gomez	Other: PO Welinton Gomez intentionally made a false official statement when he stated that he did not observe PO Felix Acosta strike § 87(2)(b).	D . § 87(2)(g)

### Case Summary

§ 87(2)(b) filed this complaint by phone with the CCRB on October 13, 2010. § 87(2)(b) filed the same complaint by phone with IAB on behalf of § 87(2)(b) on October 7, 2010, but she withdrew her complaint. According to the IAB log, it appears as if § 87(2)(b) also filed the same complaint on October 7, 2010, but he withdrew his complaint. On October 7, 2010, at approximately 12:30pm, § 87(2)(b) was standing in front of his father's supermarket, located at § 87(2)(b) § 87(2)(b) in Manhattan when PO Felix Acosta and PO Welinton Gomez, both from the 33<sup>rd</sup> Precinct, approached him. The following allegations resulted:

**Allegation A-Force: At § 87(2)(b) § 87(2)(b) in Manhattan, PO Felix Acosta used physical force against § 87(2)(b)**

§ 87(2)(g)

**Allegation B-Force: At the 33<sup>rd</sup> Precinct stationhouse, PO Felix Acosta used physical force against § 87(2)(b)**

§ 87(2)(g)

**Allegation C-Other: PO Felix Acosta intentionally made a false official statement when he said he did not strike § 87(2)(b)**

**Allegation D-Other: PO Welinton Gomez intentionally made a false official statement when he stated that he did not observe PO Felix Acosta strike § 87(2)(b)**

§ 87(2)(g)

### Results of Investigation

#### Civilian Statements

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b)

#### CCRB Testimony

§ 87(2)(b) provided a statement to the CCRB on October 26, 2010 (encl. 10a-10g). § 87(2)(g)

§ 87(2)(b). On September 22, 2010, § 87(2)(b) was driving his vehicle and was exiting the Henry Hudson Parkway in Manhattan when he observed an individual pulled over by police officers. § 87(2)(b) honked and yelled at a female driver, who would not drive past the officers' vehicle, and then § 87(2)(b) drove around her car. At the red light at West 165<sup>th</sup> Street and Riverside Drive, he was pulled over by two uniformed police officers. An officer, identified by § 87(2)(b) when he asked for the officer's name and badge number as PO Welinton Gomez from

the 33<sup>rd</sup> Precinct, a Hispanic male, asked § 87(2)(b) for his license and registration. § 87(2)(b) gave PO Gomez the information. As PO Gomez walked toward the patrol vehicle, § 87(2)(b) asked PO Gomez's partner, identified by § 87(2)(b) when he asked for the officer's name and badge number as PO Felix Acosta from the 33<sup>rd</sup> Precinct, a light-skinned Hispanic male, why he was pulled over. PO Acosta told § 87(2)(b) "Relax or you could be taken in for road rage." § 87(2)(b) was issued a summons for § 87(2)(a) CPL 160.50, § 87(2)(b) and released. The officers did not mention anything to § 87(2)(b) about having a warrant for his arrest.

On October 7, 2010, at approximately 12:29pm, § 87(2)(b) was going to supervise the unloading of a merchandise truck at his father's supermarket, called § 87(2)(b) located at § 87(2)(b) in Manhattan. § 87(2)(b) is a one-way street. When § 87(2)(b) got to the store, he had an employee, § 87(2)(b) move the employee's van and double-park it, so that the truck could unload in front of the store. PO Acosta and PO Gomez drove their marked police vehicle down § 87(2)(b) and stopped to look at § 87(2)(b) van. The officers did not exit their car. § 87(2)(b) ran out of the store to ask the officers to give him five more minutes to unload the truck. When he approached their vehicle, he observed PO Acosta, who was the driver, and PO Gomez, who was the passenger, inside the car. When § 87(2)(b) asked them to give him five minutes, they told him, "Okay" and drove away.

A few minutes later, when § 87(2)(b) saw that the officers were driving back on § 87(2)(b) he jumped into his van to move it. Once § 87(2)(b) drove away and turned on Broadway, the officers followed him. § 87(2)(b) walked up § 87(2)(b) to see if they had stopped § 87(2)(b) and then he walked back to the truck. § 87(2)(b) did not see PO Acosta and PO Gomez stop § 87(2)(b) or issue § 87(2)(b) a ticket. Later in the interview, § 87(2)(b) stated that he observed that the officers had already written a ticket to § 87(2)(b) when they drove a second time on § 87(2)(b). When the officers were going to hand § 87(2)(b) the ticket, § 87(2)(b) saw them and drove away. The officers drove behind him. When § 87(2)(b) saw the ticket, he said, "You see! That is why I made a complaint on you guys." After § 87(2)(b) received the ticket, he parked his van on Broadway and returned to work.

The officers drove on § 87(2)(b) for a third time and parked their vehicle in front of the truck. PO Gomez and PO Acosta exited their patrol car. § 87(2)(b) was standing in front of the store, approximately five feet away from the front door. When PO Acosta asked § 87(2)(b) for his identification, § 87(2)(b) asked him, "What is the reason for you asking for the ID?" PO Acosta asked § 87(2)(b) "You don't want to give me your ID?" and removed his handcuffs. PO Acosta approached § 87(2)(b) to try to handcuff him and reached for his hand but § 87(2)(b) moved it away from him and asked him, "Tell me why. Why are you asking me for my ID?" When PO Acosta reached for his hand a second time, he was unable to grab it. PO Acosta rushed § 87(2)(b) into the glass storefront and managed to grab his left hand, twist his arm, and handcuffed it.

§ 87(2)(b)'s father, § 87(2)(b) exited the store and asked the officers in English what was happening. PO Acosta told § 87(2)(b) "Shut up or I'm going to lock you up. He has a warrant." § 87(2)(b) asked the officers, "Why are you cuffing me?" § 87(2)(b) told § 87(2)(b) "Calm down and let them handcuff you." PO Acosta twisted § 87(2)(b)'s right arm up in the air and handcuffed it. In his 50 (H) hearing, § 87(2)(b) testified that after his left arm was handcuffed, his right arm was "brutally brung" up because "he couldn't cuff me." § 87(2)(b) testified that "he (referring to the officer) was pushing me around, throwing me around, trying to cuff me."

After PO Acosta handcuffed § 87(2)(b)'s right hand, he punched him once in the left side of his face with a closed fist. PO Acosta's fist made contact with § 87(2)(b)'s temple area down to his cheek. § 87(2)(b) received no injury from this punch. In his CCRB phone statement, § 87(2)(b) stated that after he was punched, he was elbowed in the face. In his 50 (H) hearing, § 87(2)(a) Gen. Mun. § 50-H(3) § 87(2)(b) asked PO Acosta, "Why are you doing that?" PO Acosta told § 87(2)(b) "Mind your business. He has a warrant." In his 50 (H) hearing, § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-H(3)

§ 87(2)(b) was transported to the 33<sup>rd</sup> Precinct stationhouse. As § 87(2)(b) was standing in front of the front desk, § 87(2)(b) told an officer, identified by § 87(2)(b) when he observed the officer's nameplate as Sgt. Victor Garcia, a Hispanic male with grey hair from the 33<sup>rd</sup> Precinct, that PO Acosta had punched him. The investigation determined that Sgt. Fredy Cruz, also a Hispanic male, from the 33<sup>rd</sup> Precinct was the officer who logged § 87(2)(b) in the command log. § 87(2)(b) told Sgt. Cruz that at the time the officers stopped him on September 22 he had a warrant, but he was not placed under arrest at that point. § 87(2)(b) told Sgt. Cruz that the officers were mad since he was going to file a complaint against them so when they saw him on October 7 they remembered his face and decided to ID him. Immediately after § 87(2)(b) made this statement to Sgt. Cruz, PO Acosta told § 87(2)(b) "Turn around." § 87(2)(b) told PO Acosta, "No." PO Acosta told him again to turn around and punched him with a closed fist on the right side of his face. In his October 19, 2010 phone statement to the CCRB, § 87(2)(b) did not mention that he was punched in the face in the stationhouse. § 87(2)(b) denied that he resisted and stated that he was standing still and handcuffed during this time. § 87(2)(b) did not receive any injury from this punch, but stated that his cheek was swollen. § 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) CPL 160.50. In his 50 (H) hearing, § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-H(3)

#### Statements to § 87(2)(b)

On § 87(2)(b), § 87(2)(b) went to the hospital and told hospital personnel that five days earlier the police had twisted his right arm and he had been having shoulder pain since (encl. 22c).

#### Witness: § 87(2)(b)

- § 87(2)(b)

#### CCRB Testimony

§ 87(2)(b) provided a statement to the CCRB on October 26, 2010 (encl. 12a-12e). § 87(2)(g) § 87(2)(b) provided additional information and exceptions noted in the text. At approximately 12:30pm, § 87(2)(b) who was in his office, went outside to ask his son, § 87(2)(b) a question. When § 87(2)(b) exited the store, he saw that PO Acosta, a tall muscular Hispanic male with an olive complexion, and PO Gomez, a short dark-skinned Hispanic male, had § 87(2)(b) against the wall. Since § 87(2)(b) did not know what was going on, he asked PO Acosta why he had § 87(2)(b) against the wall, hitting him. The officers said nothing to § 87(2)(b). § 87(2)(b) told the officers that he could get § 87(2)(b) to comply and in handcuffs. During this time, § 87(2)(b) was moving his body and moving his hands away from the officers. § 87(2)(b) then stated that § 87(2)(b) was moving his body and hands after he was punched. When § 87(2)(b) was placed in



handcuffs, PO Acosta punched § 87(2)(b) once in the face. § 87(2)(b) told PO Acosta, “Abuser. Don’t hit him. That’s my son. I could get him to behave.” § 87(2)(b) then hugged § 87(2)(b). PO Acosta told § 87(2)(b) “Move from here or the same is going to happen to you.” § 87(2)(b) did not know if PO Acosta meant arresting him or punching him. More officers arrived at the scene and § 87(2)(b) was placed inside the police vehicle.

§ 87(2)(b) went to the 33<sup>rd</sup> precinct stationhouse to speak to an officer in charge because he wanted to file a complaint against PO Acosta and PO Gomez. § 87(2)(b) asked a female who was cleaning the stationhouse, and a slim Hispanic or white male to speak to an officer in charge. Neither person said anything to § 87(2)(b). § 87(2)(b) was very impatient and was removed from the stationhouse. § 87(2)(b) stated that an officer told him, “This house is our house and you don’t need to come here to make noise and say anything.” § 87(2)(b) did not ask an officer to file a complaint.

#### **Other Evidence-Video Documentation**

§ 87(2)(b) presented two videos (Policia 10-7-10 and Policia 10-7-10 Cam 7) from the security cameras in front of § 87(2)(b) his father’s store (encl. 10c-10d). In video Policia 10-7-10, at 12:33:15, § 87(2)(b) moves to the curb, on the left corner of the screen and he is only seen from his torso to his feet. Three seconds later, another set of feet appear on the screen next to him and it appears as though he is speaking to someone. At 12:33:20, you see § 87(2)(b) step backwards, and he is now fully in the frame. He pulls his left arm back and up into the air, as though he is avoiding someone’s grasp. He begins to back away towards the wall of the store and within a second PO Acosta appears approaching him. PO Acosta grabs § 87(2)(b) by the shoulders while holding a set of handcuffs in his right hand. It appears as though PO Acosta begins to push § 87(2)(b) towards the wall, as he is pushed into a trash can behind him. PO Gomez follows behind PO Acosta. § 87(2)(b) is pushed with his back against the windows of the store, with the glass door to the store about fifteen feet to his left. PO Gomez moves to the right of § 87(2)(b) while PO Acosta is standing in front of him, holding him by the arms. At 12:33:25, § 87(2)(b) begins exiting the store. Two seconds later, it appears as though PO Acosta is trying to turn § 87(2)(b) around, but § 87(2)(b) becomes perpendicular to the window and begins bending forward. He is not seen moving his arms or legs. § 87(2)(b) approaches, leaving about ten feet of distance between him and the officers and points his finger at them, although the officers do not appear to notice him. At 12:33:30, § 87(2)(b) has turned so he is again facing PO Acosta. PO Gomez is very close to him, although it is unclear if he is holding him, and PO Acosta has his right forearm pressed against § 87(2)(b) and begins pointing his right index finger in § 87(2)(b)’s face while he speaks, waving his finger repeatedly while speaking. No movement is seen from § 87(2)(b) who appears as though he is simply listening to PO Acosta. At 12:33:33, PO Acosta pulls his right arm back and punches § 87(2)(b) on the left side of his face, possibly making additional contact with his elbow during the follow-through of the punch. After this, § 87(2)(b) turns his body to his right and tries to bend over again, and a struggle ensues where the officers try to subdue § 87(2)(b). § 87(2)(b) gets closer to them, but does not intervene, and when the officers end up pushing § 87(2)(b) into § 87(2)(b) during the struggle, § 87(2)(b) backs up. However, at 12:33:46, § 87(2)(b) moves forward and tries to pull § 87(2)(b) away from the officers. The officers both pull § 87(2)(b) in one direction while § 87(2)(b) hugs § 87(2)(b) from behind, around his torso, so the officers end up pulling both men forward. The officers get the men against the window and try to get § 87(2)(b)’s hand behind his back while § 87(2)(b) is standing behind § 87(2)(b). Eventually, by 12:34:24, it appears as though § 87(2)(b) stands back and the officers are able to handcuff § 87(2)(b). At this point a crowd of civilians has formed. At 12:35:59, two unidentified uniformed officers arrive. At

12:36:09, § 87(2)(b) is led away in handcuffs, but as he reaches the curb, he moves out of view. Neither video angle shows § 87(2)(b) being placed into the police vehicle.

### **NYPD Statements:**

#### **Subject Officer: PO FELIX ACOSTA**

- PO Acosta is a § 87(2)(b) Hispanic male, height 5'11", weight 212 pounds, with black hair and brown eyes.
- On October 7, 2010, PO Acosta was assigned to Sector A. He worked in uniform with PO Welinton Gomez from 7:05am to 3:40pm in a marked police vehicle.

#### **Memo Book**

PO Acosta noted in his memo book that he stopped § 87(2)(b) in front of § 87(2)(b) § 87(2)(b) at 12:25pm (encl. 13a-13d). PO Acosta noted in his memo book that § 87(2)(b) who was a known perpetrator, was asked for identification in regards to an outstanding warrant. § 87(2)(b) refused saying, "Fuck you, I don't have to give you shit. I am in front of my business." § 87(2)(b) placed his hands in his jacket pocket. After repeatedly asking him for ID, § 87(2)(b) refused. PO Acosta noted in his memo book that he and PO Gomez attempted to place § 87(2)(b) in handcuffs, but he pulled away from them and flailed his arm. § 87(2)(b) started acting violent and pushed away from the officers at the same time they grabbed his arms, but he continued trying to turn around. The officers told § 87(2)(b) to stop resisting and to turn around. § 87(2)(b) continued trying to get loose. The officers pushed § 87(2)(b) closer to the wall to gain better control of the situation. PO Acosta also noted in his memo book that at 12:40pm § 87(2)(b) was placed into the police vehicle and continued to be combative and hit his head against the driver side passenger window in the police vehicle.

#### **OLBS Worksheet-PO Felix Acosta**

On October 7, 2010, PO Acosta prepared an arrest report for § 87(2)(b) (encl. 14a-14e). He wrote the following on the report: § 87(2)(b), § 87(2)(a) CPL 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

#### **CCRB Testimony**

PO Acosta provided a statement to the CCRB on December 13, 2010 (encl. 15a-15d). On September 22, 2010, PO Acosta and PO Gomez had responded to a vehicle accident at West 168<sup>th</sup> Street and Riverside Drive in Manhattan. Because of the accident and investigation, traffic had slowed down and § 87(2)(b) was the second or third vehicle behind their police car. § 87(2)(b) had rolled down his window, and started cursing and yelling at the female driver in front of him, who was driving slowly. PO Acosta and PO Gomez pulled § 87(2)(b) over. Since his driver's license was valid, they issued § 87(2)(b) a § 87(2)(b), § 87(2)(a) CPL 160.50 summons and released him. Approximately five to ten minutes after § 87(2)(b) had already left the location, PO Acosta and PO Gomez received a message from the computer informing them that § 87(2)(b) had an outstanding warrant. Since § 87(2)(b) had left the location, they could not place him under arrest.

On October 7, 2010, at approximately 12:20pm, PO Acosta, who was the operator, was driving on § 87(2)(b) in Manhattan with PO Gomez, who was the recorder, when they observed a van double-parked at § 87(2)(b) and a truck, legally parked, unloading merchandise

for a store. Since § 87(2)(b) is a narrow street, cars had to squeeze through the van and the parked cars. The officers were going to issue the driver of the van a double-parking ticket, but one of the workers of the store told the officers that § 87(2)(b) was working and asked them to give § 87(2)(b) a few minutes and he would move the van. The officers told the worker that § 87(2)(b) had to move the van because it was blocking the street. PO Acosta did not recall seeing § 87(2)(b) at this point. The officers drove away.

Approximately twenty minutes later, the officers drove down § 87(2)(b) and observed the van still double-parked. When the officers began to write a ticket for the double-parking, § 87(2)(b) ran out of the store, got into the van, and drove away. The officers followed the van and pulled it over, approximately forty feet from the store, at the intersection of Broadway and § 87(2)(b). As the officers proceeded to issue § 87(2)(b) the summons, § 87(2)(b) came down § 87(2)(b) to where the officers were and began cursing at them saying in English and Spanish, “Pigs! You two, again? You couldn’t wait five minutes, cock suckers.” PO Acosta had a clear view of § 87(2)(b) who was standing on the sidewalk at the corner of § 87(2)(b) and Broadway. At first, PO Acosta did not recognize § 87(2)(b) until PO Gomez told PO Acosta, “He looks familiar. He looks like that guy we pulled over a few days ago at Riverside Drive.” As PO Gomez told PO Acosta that § 87(2)(b) looked familiar, § 87(2)(b) walked away heading back to the store on § 87(2)(b). PO Acosta told PO Gomez, “Let’s find out.”

Approximately four to five minutes later, PO Acosta drove back down § 87(2)(b) and PO Acosta observed § 87(2)(b) standing in front of the store. The reason they returned to § 87(2)(b) was to speak to § 87(2)(b) to verify his identification. The officers knew to find § 87(2)(b) in front of the store because they had seen him in front of the store when they had initially approached the van. PO Acosta and PO Gomez exited the police vehicle and PO Acosta asked § 87(2)(b) who was standing at the edge of the sidewalk, for his identification. § 87(2)(b) refused saying, “For what? I don’t have to give you shit.” Since PO Gomez still had a copy of the previous summons issued to § 87(2)(b), PO Acosta asked § 87(2)(b) “Are you § 87(2)(b)?” § 87(2)(b) told the officers, “Fuck you. I don’t have to give you any information. I’m not under arrest.” During this time, § 87(2)(b) had his hands in his jacket pocket. PO Acosta asked him again for his ID and § 87(2)(b) told him, “No.” PO Acosta told § 87(2)(b) that he had a warrant and that he was going to be placed under arrest for the outstanding warrant. PO Acosta instructed § 87(2)(b) to turn around. PO Acosta tried to grab § 87(2)(b)’s right hand that was in his right jacket pocket as he took his handcuffs from his front pouch. PO Acosta grabbed onto § 87(2)(b)’s right hand as it was still in his jacket pocket.

§ 87(2)(b) began cursing at PO Acosta, stepped back and pulled his arm away from PO Acosta trying to get his hand free. PO Acosta stepped forward, grabbed § 87(2)(b)’s left hand, and turned him around. § 87(2)(b) began yelling in Spanish cursing at the officers. PO Acosta was struggling with § 87(2)(b) when § 87(2)(b) flailed his arms as he moved from the edge of the sidewalk toward the window of the store. As they moved toward the store, PO Acosta told § 87(2)(b) “Turn around. Stop resisting.” PO Gomez was standing next to PO Acosta and he spoke to § 87(2)(b) but PO Acosta did not recall what PO Gomez told him.

With all the commotion, § 87(2)(b)’s father exited the store and pulled § 87(2)(b) away from them. PO Acosta told § 87(2)(b) “He has a warrant. He is under arrest. You are going to be arrested for obstruction of governmental authority.” § 87(2)(b) continued to pull § 87(2)(b) away and PO Acosta told § 87(2)(b) “Back away” as he told § 87(2)(b) “Stop resisting.” § 87(2)(b) told PO Acosta, “Fuck



you, pig.” § 87(2)(b) did not manage to get § 87(2)(b) away from the officers. No other individual attempted to get § 87(2)(b) away from the officers, but the crowd was calling the officers names.

As PO Acosta held onto § 87(2)(b)'s left hand, he was trying to turn him around, and managed to handcuff one of his hands. PO Acosta was unable to handcuff the other wrist because § 87(2)(b) continued to try to turn around and move the arm away from him. After approximately four to five minutes of struggling with § 87(2)(b) PO Acosta placed him in handcuffs with the help of PO Gomez. PO Acosta managed to place § 87(2)(b) in handcuffs when he pushed § 87(2)(b) against the window as PO Gomez helped from the other side as he called for additional units. PO Acosta stated that he did not have to do anything else in order to get § 87(2)(b) in control. PO Acosta denied that he punched § 87(2)(b) as he placed him in handcuffs. The following is a verbatim transcription of PO Acosta's statements concerning the force allegation in this case:

[Before viewing the video]

**Inv. Asencio:** § 87(2)(b) he, is alleging that you punched him, once while he was being placed under arrest, and the second time at the stationhouse. Did you punch him?"

**PO Acosta:** "No."

[After viewing the video]

**ASI Jarett:** "Okay and that strike to his face? Do you recall?"

**PO Acosta:** "No, I don't recall that."

When § 87(2)(b) was placed in handcuffs, § 87(2)(b) continued to intervene and PO Acosta had to physically move him away from § 87(2)(b). § 87(2)(b) continued to fight and resist after he was already placed in handcuffs since he did not want PO Acosta to touch him or place him in the police vehicle. PO Acosta and PO Gomez stood on either side of § 87(2)(b) while grabbing his hands. PO Acosta did not have to do anything else in order to control him. When the additional units arrived, § 87(2)(b) was already in handcuffs. The officers were helping PO Gomez to push people back since they were "all over us." Sgt. Cruz also responded to the scene and asked PO Acosta what happened. PO Acosta explained that § 87(2)(b) had a warrant and that § 87(2)(b) resisted arrest.

§ 87(2)(b) who was still agitated, was placed inside of the police vehicle. § 87(2)(b) hit his head on the passenger side window of the car. PO Acosta pointed out to Sgt. Cruz what § 87(2)(b) was doing and Sgt. Cruz confirmed that he saw what was happening. Later in the interview, PO Acosta stated that he did not actually observe § 87(2)(b) hitting his head against the window and stated that he was told by someone else that § 87(2)(b) was hitting his own head as he and PO Gomez were speaking to Sgt. Cruz. PO Acosta does not know how many times § 87(2)(b) hit his head. § 87(2)(b) had no injuries.

PO Acosta and PO Gomez transported § 87(2)(b) to the 33<sup>rd</sup> Precinct stationhouse. § 87(2)(b) continued to act combative as he stood before the front desk by not wanting PO Acosta to touch him or search him. As he stood before the front desk, § 87(2)(b) was saying that the reason he was under arrest was because of the CCRB complaint he filed about the summons he was issued in September. § 87(2)(b) told the officers, "You guys have no right to do this. I was in front of my store. I don't have to give you shit." PO Acosta did not know § 87(2)(b) had filed a prior complaint with the CCRB. The officers told § 87(2)(b) that he was arrested because they knew who he was and that he had a warrant and because he resisted. PO Acosta denied that he punched § 87(2)(b) at the stationhouse. The officers asked § 87(2)(b) if he wanted medical attention, but § 87(2)(b)

§ 87(2)(b) refused. § 87(2)(b) eventually calmed down and told PO Acosta that he knew he had a warrant. PO Acosta did not recall if he escorted § 87(2)(b) to the holding cell.

When § 87(2)(b) arrived at the stationhouse, he began yelling at everyone and cursing at PO Acosta when he saw him walk by with § 87(2)(b)'s warrant in his hand. PO Acosta showed § 87(2)(b) the copy of the warrant, but § 87(2)(b) did not want to hear what PO Acosta had to say to him. § 87(2)(b) was making a commotion and he was asked to leave the precinct. § 87(2)(b) refused and PO Acosta told him that he could have been arrested for obstruction of governmental administration and now he could be placed under arrest for trespassing because they were asking him to leave. Many unidentified officers (PO Acosta did not recall who they were) spoke to § 87(2)(b) to get him to leave and eventually he did. Before he left, § 87(2)(b) told PO Acosta that he wanted to file a complaint with the CCRB. PO Acosta stated that he did not recall § 87(2)(b) asking him for a phone number to file the complaint.

After PO Acosta viewed the video footage provided by § 87(2)(b) in regards to the incident, he stated that he did not recall the punch to § 87(2)(b)'s face, as it was shown to him on the video. PO Acosta did not recall what was happening before the punch and stated that he did not feel that he had § 87(2)(b) "a little secured" at that point because § 87(2)(b) was not in handcuffs. When informed that in the video it shows that PO Acosta and PO Gomez had some sort of hold of § 87(2)(b), PO Acosta stated that what is seen in the video is them trying to turn § 87(2)(b) around. PO Acosta stated that § 87(2)(b) kept trying to turn around and § 87(2)(b) was pulling him when he was not in handcuffs.

**Subject Officer: PO WELINTON GOMEZ**

- PO Gomez is a § 87(2)(b) Hispanic male, height 5'11", weight 220 pounds, with black hair and brown eyes.
- On October 7, 2010, PO Gomez was assigned to Sector A with PO Felix Acosta. PO Gomez worked in uniform from 7:05am to 3:40pm in a marked police vehicle.

**Memo Book**

PO Gomez had similar entries in his memo book as PO Acosta except that he noted that he went to § 87(2)(b) at 1:45pm for a scratched left hand and lacerations to left middle finger (encl. 16a-16c).

**CCRB Testimony**

PO Gomez provided a statement to the CCRB on January 13, 2011 (encl. 17a-17c). § 87(2)(g)

§ 87(2)(b) approached the police vehicle and told the officers to give him five minutes since he was working. The officers agreed and when they returned approximately twenty minutes later, PO Gomez observed that the van was still double-parked on § 87(2)(b). PO Gomez began to write § 87(2)(b) a double-parking ticket when § 87(2)(b) got into the van and drove away. During this time, PO Gomez observed § 87(2)(b) standing in front of the supermarket but § 87(2)(b) did not say anything to the officers. PO Acosta followed the van and pulled it over at § 87(2)(b) and Broadway. The officers' vehicle was facing northbound on Broadway at § 87(2)(b) and PO Gomez issued § 87(2)(b) the ticket. At this point, § 87(2)(b) came from around the corner at § 87(2)(b) and Broadway screaming at the officers, "Why are you doing that? You are the same two guys that gave me the summons a couple of weeks ago. You can suck my dick! I'm going to make another CCRB complaint against you." PO Gomez gave a summons to § 87(2)(b) a couple of weeks prior to the incident, but before that

moment he did not realize it was the same person. PO Acosta did not mention anything to PO Gomez about recognizing § 87(2)(b) from the prior incident. When PO Gomez began to walk toward § 87(2)(b) he walked away.

The officers decided to go back to § 87(2)(b) because of the way § 87(2)(b) had screamed at them, which caused a lot of people to gather around him. PO Gomez stated that the intention of returning to § 87(2)(b) was to ask § 87(2)(b) why he was screaming. It was PO Gomez's decision to drive back to speak to § 87(2)(b). When the officers had driven down § 87(2)(b) for the third time, § 87(2)(b) was standing in front of the supermarket. PO Gomez did not recall how long it took to drive back around to § 87(2)(b). PO Gomez and PO Acosta exited the car together and PO Acosta, who stood in front of § 87(2)(b) asked him for his identification as PO Gomez stood to the left of PO Acosta. § 87(2)(b) told PO Acosta that he did not have to give him the ID because he was in front of his business and they had no right to stop him. § 87(2)(b) told the officers, "You can suck my dick." PO Acosta asked § 87(2)(b) a second time for the identification. PO Gomez did not recall if PO Acosta told § 87(2)(b) anything about the warrant.

§ 87(2)(b) proceeded to walk toward the store. PO Gomez did not remember what PO Acosta did at this point because a crowd started to gather and PO Gomez was looking into the crowd. § 87(2)(b) did not go into the store. PO Acosta wanted to place § 87(2)(b) under arrest because he refused to provide his ID and he was cursing at the officers, acting disorderly, and causing a crowd to gather. § 87(2)(b) resisted by pulling his whole body away from PO Acosta and pushing back. PO Gomez tried to assist PO Acosta in handcuffing § 87(2)(b) but he had to keep the crowd back, as well. PO Acosta told § 87(2)(b) "Stop resisting." PO Gomez did not recall if § 87(2)(b) said anything during this time.

§ 87(2)(b)'s father exited the store and tried to pull § 87(2)(b) into the store. When § 87(2)(b) exited the store, § 87(2)(b) had one hand in a handcuff while his free hand was being held by PO Gomez, who was calling for additional units. PO Acosta was the officer who managed to handcuff one of § 87(2)(b)'s hands. During this time, PO Gomez was standing to the left holding § 87(2)(b)'s other arm. PO Gomez did not recall if § 87(2)(b) made any threatening gestures toward them. PO Gomez did not remember how he and PO Acosta were able to handcuff § 87(2)(b). PO Gomez stated that he cut his fingers as they arrested § 87(2)(b) but he did not recall how he obtained the cuts. PO Gomez did not see PO Acosta punch § 87(2)(b) while he was being placed in handcuffs. The following is a verbatim transcription of PO Gomez's interview concerning the force allegation:

[Before the video]

**Inv. Asencio:** § 87(2)(b) is alleging that your partner [PO Acosta] punched him during the time that he was being placed in handcuffs. Did you see your partner do that?"

**PO Gomez:** "No."

[After the video]

**Inv. Asencio:** "So you have him [referring to § 87(2)(b) in the storefront here, so what is going on here that? Do you recall what is going on during that time [where PO Acosta is seen punching § 87(2)(b)]

**PO Gomez:** "No."

§ 87(2)(b) was unable to get § 87(2)(b) into the store. PO Gomez did not speak to § 87(2)(b) because PO Gomez was using his radio. PO Gomez did not know if PO Acosta said anything to § 87(2)(b). Later in the interview, PO Gomez stated that PO Acosta told § 87(2)(b) that he could be placed

under arrest for obstruction of governmental administration. PO Gomez denied that any officer threatened § 87(2)(b) with the use of force. PO Gomez did not recall which officers responded to his call and stated that when the additional officers arrived they rushed § 87(2)(b) into the police vehicle. Once § 87(2)(b) was inside of the police vehicle, they observed § 87(2)(b) hitting the left side of his head against the window, trying to hurt himself. PO Gomez did not observe any injuries on § 87(2)(b).

At the stationhouse, PO Gomez and PO Acosta escorted § 87(2)(b) to the front desk. Once they stopped at the front desk, PO Gomez went straight to the bathroom to wash his hand since it was bleeding. PO Gomez saw the doctor at the hospital in regards to his cut but he did not go “Line of Duty.” PO Gomez did not observe PO Acosta punch § 87(2)(b) while he was at the stationhouse. PO Gomez saw § 87(2)(b) at the stationhouse, but neither PO Gomez nor PO Acosta spoke to him. § 87(2)(b) did not mention anything to PO Gomez about filing a complaint.

After viewing the video, PO Gomez identified himself as holding one of § 87(2)(b)'s arms as he used his other hand to call for additional units since people had started to gather. One of § 87(2)(b)'s wrists was already in handcuffs. PO Gomez stated that he sees from the video PO Acosta trying to handcuff § 87(2)(b) and § 87(2)(b) not wanting to put his other arm back. § 87(2)(b) was moving his arm as the officers were trying to handcuff him. PO Gomez stated that he observed § 87(2)(b) struggling at the same time he was being struck in the face by PO Acosta as PO Gomez stood to § 87(2)(b)'s right side with PO Acosta standing in front of him. PO Gomez did not recall what was happening during the time that PO Acosta is seen punching § 87(2)(b). PO Gomez did not have any independent recollection of PO Acosta punching § 87(2)(b).

**Witness Officer: SGT. FREDY CRUZ**

- *Sgt. Cruz is a § 87(2)(b) Hispanic male, height 5'9", weight 195 pounds, with brown hair and brown eyes.*
- *On October 7, 2010, Sgt. Cruz was assigned to the Conditions Unit. Sgt. Cruz was dressed in plainclothes and worked alone in an unmarked police vehicle from 8:00am to 5:00pm.*

**Memo Book**

Sgt. Cruz noted on his fly sheet that PO Acosta had arrested § 87(2)(b) at § 87(2)(b). He also noted on the fly sheet that he went to the stationhouse for administrative duties (encl. 18a-18d).

**CCRB Testimony**

Sgt. Cruz provided a statement to the CCRB on April 1, 2011 (encl. 19a-19b). Sgt. Cruz responded to a call for additional units at § 87(2)(b) in Manhattan. When Sgt. Cruz arrived at the scene, he observed a large crowd of approximately ten to fifteen people along with other police officers, including PO Acosta. Sgt. Cruz could not remember which other officers were present. Sgt. Cruz approached PO Acosta since he was having a problem with § 87(2)(b) who was handcuffed but moving his body around. § 87(2)(b) was uncooperative and combative by not standing still. § 87(2)(b) was also cursing, but § 87(2)(b) did not say anything to Sgt. Cruz as he stood before him. Sgt. Cruz did not have any physical contact with § 87(2)(b). Sgt. Cruz instructed PO Acosta to put § 87(2)(b) inside the police vehicle. As § 87(2)(b) was inside of the patrol car, he banged the side of his head against the window.

Sgt. Cruz began to disperse the crowd and as he was dispersing the crowd, § 87(2)(b) attempted to pass Sgt. Cruz to go toward § 87(2)(b) in the car. Sgt. Cruz held onto § 87(2)(b) and told him, “No,



you can't interfere." § 87(2)(b) calmed down and Sgt. Cruz explained to him that § 87(2)(b) was going to be taken to the 33<sup>rd</sup> Precinct stationhouse. When Sgt. Cruz arrived at the stationhouse, he logged § 87(2)(b) in the command log. When § 87(2)(b) stood before him at the front desk, § 87(2)(b) did not tell Sgt. Cruz anything about the arrest or anything in regards to PO Acosta. Sgt. Cruz did not observe any injuries on § 87(2)(b) or hear him complain of any injuries. § 87(2)(b) was upset, but he did not recall what § 87(2)(b) said to him. Sgt. Cruz did not observe PO Acosta punch § 87(2)(b) in the stationhouse. Sgt. Cruz remained at the stationhouse for the remainder of his tour doing "desk duties." § 87(2)(b) arrived at the stationhouse to protest § 87(2)(b)'s arrest and Sgt. Cruz spoke to him, but § 87(2)(b) did not mention to Sgt. Cruz that he wanted to file a complaint. Sgt. Cruz explained to § 87(2)(b) why § 87(2)(b) was placed under arrest and what he could do about the arrest. During this time, § 87(2)(b) was calm. There was no need to have § 87(2)(b) removed from the stationhouse. If § 87(2)(b) wanted to file a complaint, it would have been noted in the command log.

**Witness Officer: SGT. VICTOR GARCIA**

- Sgt. Garcia is a § 87(2)(b) Hispanic male, height 5'9", weight 230 pounds, with black hair and brown eyes.
- On October 7, 2010, Sgt. Garcia was assigned as the desk officer at the 33<sup>rd</sup> Precinct stationhouse. Sgt. Garcia worked alone and in uniform from 6:55am to 3:50pm.

**Memo Book**

Sgt. Garcia had no memo book entries for this incident (encl. 20a-20c).

**CCRB Testimony**

Sgt. Garcia provided a statement to the CCRB on February 10, 2011 (encl. 21a-21b). Sgt. Garcia had no independent recollection of this incident. After Sgt. Garcia looked at the Command Log, he stated that he did not log § 87(2)(b) in the Command Log since the entry was not his handwriting. Sgt. Garcia did not remember seeing § 87(2)(b) with PO Acosta and PO Gomez, and he did not observe § 87(2)(b) being punched by PO Acosta at the front desk. Sgt. Garcia did not recognize § 87(2)(b)'s photograph.

**Medical Records**

On § 87(2)(b), § 87(2)(b) visited § 87(2)(b), § 87(2)(b) diagnosed § 87(2)(b) with a right shoulder sprain and prescribed him Naproxen tablets (encl. 22e).

**NYPD Documents**

**Sprint**

- On October 7, 2010, two duplicate Sprints were created regarding this incident, Sprint # § 87(2)(b) and § 87(2)(b). At approximately 12:30pm, a civilian caller, calling from number § 87(2)(b), hung up when transferred to the Spanish translator and the call was qualified as an unknown condition at § 87(2)(b). At 12:32pm, Sgt. Cruz arrived at the scene. At 12:38pm, § 87(2)(b) reported a dispute between the son of the owner of § 87(2)(b) and the police. At 12:42pm, Sector A had § 87(2)(b) under arrest (encl. 23a-23c).

**Command Log**

- The Command Log indicates that PO Acosta arrested § 87(2)(b) for § 87(2)(b), § 87(2)(a) CPL § 87(2)(b), § 87(2)(a) CPL 160.50 at 1:09pm (encl. 24a-24d). § 87(2)(b)'s physical/mental condition was good. At 8:00pm, § 87(2)(b) was transported to Manhattan

Central Booking. It was noted in the command log that PO Gomez went line of duty to § 87(2)(b) for an injury to his hand at 1:10pm. It was also noted that Sgt. Cruz began his desk duties at 1:15pm. The command log has no entry indicating that § 87(2)(b) wanted to file a civilian complaint against PO Acosta or PO Gomez.

#### **Arrest Photograph**

- § 87(2)(b)'s arrest photograph shows no visible injuries (encl. 25a).

#### **Summons for Incident and Disposition**

- The § 87(2)(b), § 87(2)(a) CPL summons (§ 87(2)(b), § 87(2)(a) CPL 160.50) issued to § 87(2)(b) on September 22, 2010 was dismissed.

#### **Arrest for Incident and Disposition**

- § 87(2)(b)'s arrest has been sealed (encl. 28b).

#### **Status of Civil Proceedings**

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming improper assault, battery, detention and is seeking \$10,000,000.00 as redress (encl. 29a-29c).

#### **Civilian Criminal History**

- The Office of Court Administration records reveal that on January 21, 2010 a warrant was issued for § 87(2)(b) (encl. 28e).
- As of September 28, 2011, Office of Court Administration records reveal the following criminal convictions for § 87(2)(b)
  - § 87(2)(b)

#### **Civilian CCRB History**

- § 87(2)(b) has filed the following CCRB complaints (encl. 6a):
  - § 87(2)(b) regarding the § 87(2)(b), § 87(2)(a) CPL summons (§ 87(2)(b), § 87(2)(a) CPL 160.50) was referred to the Office of the Chief of Department.
  - § 87(2)(b)

#### **Subject Officers CCRB History**

- PO Felix Acosta has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 4a).
- PO Welinton Gomez has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 5a).

### **Conclusion**

#### **Identification of Subject Officers**

- § 87(2)(b) identified PO Acosta as the officer who had punched him when he requested the officer's name and badge number during a prior incident. PO Acosta also identified himself on the video as the officer who punched § 87(2)(b). As such, Allegations A, B, and C are pled against him.
- PO Gomez identified himself on the video as the officer holding one of § 87(2)(b)'s arms as he called for additional units. As such, Allegation D was pled against him.

### **Allegations Not Pled**

§ 87(2)(b) alleged that he was approached by PO Acosta because he had filed a complaint against him and PO Gomez for a stop that took place a few weeks before the incident. PO Acosta testified that he and PO Gomez approached § 87(2)(b) after they recognized him as the individual they had previously stopped and who they had released before learning that he was wanted for an outstanding warrant. PO Acosta stated that they approached § 87(2)(b) to determine his identity. Yet, PO Gomez testified that they returned to speak to § 87(2)(b) because he had screamed at them and had caused a crowd to gather while they were issuing § 87(2)(b) a summons on October 7. § 87(2)(b) did have an outstanding warrant that was noted on his arrest paperwork and OCA records. Since PO Acosta requested § 87(2)(b)'s ID to verify his identity as the person sought in the warrant, the stop allegation was not pled.

§ 87(2)(b) testified that PO Acosta threatened to arrest his father as he was being placed under arrest. PO Acosta admitted that he told § 87(2)(b) that he could be placed under arrest for obstruction of governmental administration. Based on the video documentation, § 87(2)(b) was seen pulling his son away from the officers as they are handcuffing him. Therefore, PO Acosta's comment was a statement of fact, not a threat. In addition, § 87(2)(b) testified that after he observed PO Acosta punch his son, PO Acosta told him, "Move from here or the same is going to happen to you." § 87(2)(b) stated that he did not know what PO Acosta meant by the statement. Since § 87(2)(b)'s actions at the time his son was being placed under arrest could have resulted in his arrest and since he was not sure if PO Acosta meant that he would arrest him or punch him, the allegation was not pled.

Furthermore, § 87(2)(b) testified that when he went to the stationhouse to file a complaint against PO Acosta and PO Gomez, he asked two individuals to speak to "an officer in charge." Since § 87(2)(b) did not tell these individuals specifically that he wanted to file a complaint, but wanted to speak to a supervisor, the refusal to file a complaint against PO Acosta and PO Gomez was not pled.

### **Investigative Findings and Recommendations**

#### **Allegation A-Force: At § 87(2)(b) in Manhattan, PO Felix Acosta used physical force against § 87(2)(b)**

It is undisputed that once PO Acosta approached § 87(2)(b) to place him in handcuffs, § 87(2)(b) resisted arrest. The video documentation supports the officers' claim that § 87(2)(b) resisted when he pulled his arms away from them. PO Acosta pushed § 87(2)(b) against the store front in order to subdue him. While against the wall, § 87(2)(b) testified that PO Acosta punched him in the left side of his face after he was placed in handcuffs. When interviewed, PO Acosta denied that he had punched § 87(2)(b). After viewing the video showing him punching § 87(2)(b), PO Acosta could not explain the circumstances that resulted in the punch and stated that at the time the punch occurred § 87(2)(b) was not in handcuffs. PO Gomez also testified that he did not observe PO Acosta punching § 87(2)(b) and stated after he viewed the video that he did not recall what took place with § 87(2)(b) during the time PO Acosta is seen punching him. Yet, PO Gomez testified that one of § 87(2)(b)'s wrists was handcuffed at the time as PO Gomez held onto § 87(2)(b)'s other arm.

The video documentation shows that when PO Acosta punched § 87(2)(b) PO Acosta and PO Gomez had some control of § 87(2)(b) who was not moving any part of his body and appeared to simply be listening to PO Acosta. After the punch, § 87(2)(b) begins to offer much more resistance. PO Gomez testified that he received a cut to his fingers after the interaction with § 87(2)(b) but he was unable to articulate how he received the injury. The officers also testified that once § 87(2)(b) was inside of the police vehicle, he was banging his own head against the window, in an attempt to injure himself. Although § 87(2)(b) testified that he received no injuries from the punch and that he did not inform hospital personnel about the punch, the video documentation clearly shows that PO Acosta did punch § 87(2)(b) in the face. New York City Patrol Guide Procedure 203-11 states “all uniformed members of the service are responsible and accountable for the proper use of force under appropriate circumstances. All members of the service at the scene of a police incident must use minimum necessary force” (encl. 1a-1b). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation B-Force: At the 33<sup>rd</sup> Precinct stationhouse, PO Felix Acosta used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that as he stood before the front desk and in the presence of Sgt. Cruz, PO Acosta punched him on the right side of his face. § 87(2)(b) made the allegation during his intake statement, but he did not mention the allegation during his phone statement. Sgt. Cruz and PO Gomez denied seeing PO Acosta punch § 87(2)(b) at the stationhouse, and PO Acosta denied doing so. When § 87(2)(b) went to the hospital, he did not tell hospital personnel that he was punched in the face at the stationhouse. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

**Allegation C-Other: PO Felix Acosta intentionally made a false official statement when he said he did not strike § 87(2)(b)**

The undersigned interviewed PO Acosta approximately two months after the incident. Before PO Acosta was shown video evidence, he told the undersigned that he did not punch § 87(2)(b). The video clearly depicted PO Acosta striking § 87(2)(b) in the face as he stood against the storefront, § 87(2)(g). PO Acosta did not testify that he “did not recall” whether he punched § 87(2)(b) but denied that he had done so entirely. As § 87(2)(b)’s arresting officer, PO Acosta made a detailed entry in his memo book about § 87(2)(b)’s resistance and also wrote a detailed narrative on § 87(2)(b)’s arrest report. When he was interviewed at the CCRB, PO Acosta provided a detailed account of § 87(2)(b)’s actions before and after he was placed under arrest, demonstrating that he had an independent recollection of this incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)



**Allegation D-Other: PO Welinton Gomez intentionally made a false official statement when he stated that he did not observe PO Felix Acosta strike § 87(2)(b)**

PO Gomez provided a statement to the CCRB approximately three months after this incident and testified before viewing the video that he did not observe his partner punch § 87(2)(b) while they were arresting him. After viewing the video, PO Gomez testified that he did not recall what was going on at the time of the punch. In the video, PO Gomez was standing to the side of § 87(2)(b) as PO Acosta stood in front of § 87(2)(b) and punched him. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Team: One

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Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date